

REMARKS/ARGUMENTS

Claims 1-6, 9, 10, 15, 19, 32, 39, 40, 45, 46, 49, 50, 52 and 53 are pending in the present application. In this Response, claims 40 and 53 are amended to place them in better condition for U.S. practice. New ‘method’ claims 54 - 63 are proposed for addition as replacements for ‘Use’ claims 1-3, 9, 46 and 50. Accordingly, original ‘Use’ claims 1-3, 9, 46 and 50 have been canceled from this application without prejudice or disclaimer. Additionally, new composition claim 64 is proposed for addition into the application. The claim recites the specific examples of hepatic disorder previously recited in original claim 40 prior to the amendment of that claim. Both the proposed new claims and the claim amendments are entirely supported by the application as originally filed. Therefore there is no issue of new matter and, thus, entry of the amendments and new claims is respectfully solicited. Upon such entry, claims 4-6, 10, 15, 19, 32, 39-40, 45, 49 and 52-64 will be pending in the application.

Response To Restriction Requirement

In accordance with 37 C.F.R. 1.499 applicants are required to elect one claim Group for continued prosecution in this application from among claim Groups I - V. Applicants thus elect, without traverse, the claims of Group I, i.e., Nos. 1-3, 9, 40, 46, 50 and 53.

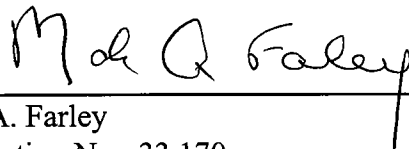
Of the claims in the elected Group, nos. 1-3, 9, 46 and 50 were written as “Use” claims. In light of the discussion on p. 2 of the Office Action, i.e., that applicants’ ‘use’ claims have an improper format, the elected ‘use’ claims (i.e., the ‘use’ claims contained in Group I) have been rewritten as ‘method’ claims. Thus, original ‘use’ claim 1 has now been rewritten as new method claims 54-57. Use claim 2 is rewritten as new method claim 58. Use claim 3 is rewritten as method claim 59. Use claim 9 is rewritten as method claim 60. Use claim 46 is rewritten as new method claims 61-62. And use claim 50 is rewritten as new method claim 63. Further, as indicated above, new claim 64 is a composition claim depending from elected composition claim 40 and reciting certain preferred examples of hepatic disorders which the claimed composition may be used to prevent and/or treat.

Per the discussion above, therefore, applicants respectfully submit that their election should be deemed as constituting an election of Group I, claims 40, 53 and new claims 54-64.

However, should the Examiner choose to make a further restriction after considering the new and amended claims presented in this response, as she states she will do on p. 2 of the present Office Action, applicants respectfully inform the Examiner that they provisionally elect the claims 54-57, directed to a method for treating a human or animal patient exhibiting a) at least one dysfunction of endothelial progenitor cells, b) at least one cardiovascular risk factor and c) at least one end-organ damage, for further prosecution in this application.

THIS CORRESPONDENCE IS BEING
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Respectfully submitted,



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